

# SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN DIEGO

## CIVIL HARASSMENT AFTER EX PARTE HEARING PACKET



### FORMS INCLUDED IN THIS PACKET

Civil Harassment Temporary Restraining Order Checklist	SDSC Form #CIV-257
What is "Proof of Personal Service"?	Judicial Council Form #CH-200-INFO
Proof of Personal Service	Judicial Council Form #CH-200
Civil Harassment Restraining Order After Hearing	Judicial Council Form #CH-130
Request to Continue Court Hearing and to Reissue Temporary Restraining Order	Judicial Council Form #CH-115



## SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO

- ☐ CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101
- ☐ NORTH COUNTY DIVISION, 325 S. MELROSE DR., SUITE 1000, VISTA, CA 92081
- ☐ EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
- ☐ SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

### CIVIL HARASSMENT TEMPORARY RESTRAINING ORDER CHECKLIST

#### ☐ **YOUR CERTIFIED COPY**

- ✓ Keep a certified copy of the Temporary Restraining Order (JC Form #CH-110) with you at all times. This is proof that there is a valid court order. If the restrained person (respondent) violates the order, call the police and show the officer your certified copy of the order.

#### ☐ **COPIES FOR SERVICE ON RESPONDENT**

- ✓ If you are having the Sheriff serve the restrained person (respondent), take the packet to the Sheriff's Civil Business Office.
- ✓ If someone other than the Sheriff serves the restrained person (respondent):
  1. The person serving the documents must be at least 18 years of age and not a party to your case.
  2. The entire packet must be personally served on the restrained person (respondent).
  3. The person serving the documents must complete the Proof of Personal Service (JC Form #CH-200) and file the original with the court.
  4. You should keep a copy of the proof of service for your records.

See *What is "Proof of Personal Service"?* (JC Form #CH-200-INFO) for more information about how to serve.

#### ☐ **BEFORE THE HEARING**

- ✓ Complete the Civil Harassment Restraining Order After Hearing (JC Form #CH-130), so that it matches the Temporary Restraining Order exactly. If the restraining order is granted, the judge will sign this form at the hearing.

#### ☐ **IF THE RESPONDENT IS NOT SERVED BEFORE THE HEARING**

- ✓ If you are unable to serve the restrained person (respondent) prior to the hearing, complete the Request to Continue Court Hearing and to Reissue Temporary Restraining Order form (JC Form #CH-115) and bring it with you on the date of your hearing. You can request the judge reissue the Temporary Restraining Order at that time.

**What is “Service”?**

Service is the act of giving your legal papers to the other party. There are many kinds of service—in person, by mail, and others. This form is about personal or “in-person” service. The *Request for Civil Harassment Restraining Orders* (Form CH-100), the *Notice of Court Hearing* (Form CH-109), and the *Temporary Restraining Order* (Form CH-110) must be served “in person.” That means that someone must personally “serve” (give) a copy of the forms to the person to be restrained. These forms cannot be served by mail.

Service lets the other person know:

- What orders you are asking for
- The hearing date
- How to respond

**Why do I have to get the orders served?**

- The police cannot arrest anyone for violating an order unless that person knows about the order.
- The judge cannot make the orders permanent unless the restrained person was served.

**Who can serve?**

Ask someone you know, a process server, or a law enforcement agency to personally serve (give) a copy of the forms to the person to be restrained. You **cannot** send the forms to that person by mail.

The server must:

- Be 18 years of age or older
- Not be you or anyone whom you are asking to be protected by the orders

The sheriff or marshal may be authorized to serve the court’s orders **for free** if the orders are based on claims of stalking, unlawful violence, or a credible threat of violence, or if you are entitled to a fee waiver.

A “registered process server” is a business you pay to deliver court forms. Look for “Process Serving” in the Yellow Pages or on the Internet.

(If a law enforcement agency or the process server uses a different proof-of-service form, make sure it lists the forms served.)



*Don't serve it by mail!*

**How to serve**

Ask the server to:

- Walk up to the person to be served.
- Make sure it is the right person. Ask the person’s name.
- Give the person copies of all papers checked on Form CH-200, *Proof of Personal Service*.
- Fill out and sign the *Proof of Personal Service* form.
- Give the signed *Proof of Personal Service* to you.

**What if the person won’t take the papers or tears them up?**

- If the person won’t take the papers, just leave them near him or her.
- It doesn’t matter if the person tears them up. Service is still complete.

**When do the orders have to be served?**

It depends. To know the exact date, you have to look at two things on Form CH-109, *Notice of Court Hearing*:

First, look at the hearing date on page 1 of Form CH-109.

③ **Notice of Hearing**

**Hearing Date** → Date: \_\_\_\_\_  
Dept.: \_\_\_\_\_

Next, look at the number of days in item ⑤ on page 2 of Form CH-109.

⑤ **Service of Documents By the Person in ①**

At least ☐ five ☐ \_\_\_\_\_ days before the hearing.

Look at a calendar. Subtract the number of days in ⑤ from the hearing date. That is the final date to have the orders served. It is always OK to serve earlier than that date.

If nothing is checked or written in ⑤, you must serve the orders at least five days before the hearing.

**Who signs the *Proof of Personal Service*?**

Only the person who serves the forms can sign Form CH-200, *Proof of Personal Service*. You do not sign it; the restrained person does not need to sign it.

**What do I do with the completed *Proof of Personal Service*?**

If someone other than the sheriff serves the papers, you should:

- Make several copies.
- File the original with the court before your hearing.
- Ask the clerk to enter it into the California Law Enforcement Telecommunications System (CLETS), a special computer system that lets police all over the state find out about the orders protecting you.
- If the clerk tells you that the court cannot enter it into the computer, take a copy of the *Temporary Restraining Order* (Form CH-110) and *Proof of Personal Service* (Form CH-200) to your local police. They will put the information into the state computer system. That way, police all over the state will know that your restraining order has been served.
- Bring a copy of the completed *Proof of Personal Service* to your hearing.
- Always keep an extra copy of the restraining orders with you for your safety.

If the sheriff serves the papers, he or she will send the proof of service to the court and CLETS for you.

**What happens if I can't get the orders served before the hearing date?**

Before your hearing, fill out and file Form CH-115, *Request to Continue Court Hearing and to Reissue Temporary Restraining Order*. This form asks the court for a new hearing date and makes your orders last until then. Ask the clerk for the form. After the court has reissued the orders, attach a copy of Form CH-116, *Notice of New Hearing Date and Order on Reissuance*, to a copy of your original orders. Ask the clerk to enter Form CH-116 into CLETS, or the clerk may ask you or your attorney to deliver a copy to the police. That way, the police will know your orders are still in effect.

Clerk stamps date here when form is filed.

**1 Person Seeking Protection**

Name: \_\_\_\_\_

**2 Person From Whom Protection Is Sought**

Name: \_\_\_\_\_

**3 Notice to Server**

The server must:

- Be 18 years of age or older.
- Not be listed in items ① or ③ of Form CH-100.
- Give a copy of all documents checked in ④ to the person in ②. (You cannot send them by mail.) Then complete and sign this form and give or mail it to the person in ①.



Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:****4 I gave the person in ② a copy of the forms checked below:**

- a. ☐ CH-109, *Notice of Court Hearing*
- b. ☐ CH-110, *Temporary Restraining Order*
- c. ☐ CH-100, *Request for Civil Harassment Restraining Orders*
- d. ☐ CH-120, *Response to Request for Civil Harassment Restraining Orders* (blank form)
- e. ☐ CH-120-INFO, *How Can I Respond to a Request for Civil Harassment Restraining Orders?*
- f. ☐ CH-130, *Civil Harassment Restraining Order After Hearing*
- g. ☐ CH-800, *Proof of Firearms Turned In, Sold, or Stored* (blank form)
- h. ☐ Other (*specify*): \_\_\_\_\_

**5 I personally gave copies of the documents checked above to the person in ②:**

- a. On (*date*): \_\_\_\_\_ b. At (*time*): \_\_\_\_\_ ☐ a.m. ☐ p.m.
- c. At this address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**6 Server's Information**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

*(If you are a registered process server):*

County of registration: \_\_\_\_\_ Registration number: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: \_\_\_\_\_

Type or print server's name

Server to sign here

# Civil Harassment Restraining Order After Hearing

Clerk stamps date here when form is filed.

Person in ① must complete items ①, ②, and ③ only.

## ① Protected Person

a. Your Full Name: \_\_\_\_\_

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

Superior Court of California, County of \_\_\_\_\_

Court fills in case number when form is filed.

Case Number: \_\_\_\_\_

## ② Restrained Person

Full Name: \_\_\_\_\_

Description:

Sex: ☐ M ☐ F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_ Age: \_\_\_\_\_ Race: \_\_\_\_\_

Home Address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Relationship to Protected Person: \_\_\_\_\_

## ③ ☐ Additional Protected Persons

In addition to the person named in ①, the following family or household members of that person are protected by the orders indicated below:

Full Name	Sex	Age	Lives with you?	How are they related to you?
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____
_____	_____	_____	<input type="checkbox"/> Yes <input type="checkbox"/> No	_____

☐ Check here if there are additional persons. List them on an attached sheet of paper and write "Attachment 3—Additional Protected Persons" as a title. You may use Form MC-025, Attachment.

## ④ Expiration Date

This Order, except for any award of lawyer's fees, expires at:

Time: \_\_\_\_\_ ☐ a.m. ☐ p.m. ☐ midnight on (date): \_\_\_\_\_

If no expiration date is written here, this Order expires three years from the date of issuance.

**This is a Court Order.**



**5 Hearing**

- a. There was a hearing on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_ in Dept.: \_\_\_\_\_ Room: \_\_\_\_\_  
*(Name of judicial officer)*: \_\_\_\_\_ made the orders at the hearing.
- b. These people were at the hearing:
- (1) ☐ The person in ① (3) ☐ The lawyer for the person in ① *(name)*: \_\_\_\_\_
- (2) ☐ The person in ② (4) ☐ The lawyer for the person in ② *(name)*: \_\_\_\_\_
- ☐ Additional persons present are listed at the end of this Order on Attachment 5.
- c. ☐ The hearing is continued. The parties must return to court on *(date)*: \_\_\_\_\_ at *(time)*: \_\_\_\_\_.

**To the Person in ②:**

**The court has granted the orders checked below. If you do not obey these orders, you can be arrested and charged with a crime. You may be sent to jail for up to one year, pay a fine of up to \$1,000, or both.**

**6 ☐ Personal Conduct Orders**

- a. You must **not** do the following things to the person named in ①
- ☐ and to the other protected persons listed in ③:
- (1) ☐ Harass, intimidate, molest, attack, strike, stalk, threaten, assault (sexually or otherwise), hit, abuse, destroy personal property of, or disturb the peace of the person.
- (2) ☐ Contact the person, either directly or indirectly, in **any** way, including, but not limited to, in person, by telephone, in writing, by public or private mail, by interoffice mail, by e-mail, by text message, by fax, or by other electronic means.
- (3) ☐ Take any action to obtain the person's address or location. If this item (3) is not checked, the court has found good cause not to make this order.
- (4) ☐ Other *(specify)*: \_\_\_\_\_
- ☐ Other personal conduct orders are attached at the end of this Order on Attachment 6a(4).
- b. Peaceful written contact through a lawyer or process server or other person for service of legal papers related to a court case is allowed and does not violate this Order.

**7 ☐ Stay-Away Orders**

- a. You **must** stay at least \_\_\_\_\_ yards away from *(check all that apply)*:
- (1) ☐ The person in ① (7) ☐ The place of child care of the children of the person in ①
- (2) ☐ Each person in ③
- (3) ☐ The home of the person in ① (8) ☐ The vehicle of the person in ①
- (4) ☐ The job or workplace of the person in ① (9) ☐ Other *(specify)*: \_\_\_\_\_
- (5) ☐ The school of the person in ① \_\_\_\_\_
- (6) ☐ The school of the children of the person in ① \_\_\_\_\_

**This is a Court Order.**

- b. This stay-away order does not prevent you from going to or from your home or place of employment.

**8 No Guns or Other Firearms and Ammunition**

- a. **You cannot own, possess, have, buy or try to buy, receive or try to receive, or in any other way get guns, other firearms, or ammunition.**
- b. If you have not already done so, you must:
- Within 24 hours of being served with this Order, sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms in your immediate possession or control.
  - File a receipt with the court within 48 hours of receiving this Order that proves that your guns or firearms have been turned in, sold, or stored. (*You may use Form CH-800, Proof of Firearms Turned In, Sold, or Stored for the receipt.*)
- c. ☐ The court has received information that you own or possess a firearm.

**9 ☐ Lawyer's Fees and Costs**

The person in \_\_\_\_ must pay to the person in \_\_\_\_ the following amounts for:

- a. ☐ Lawyer's fees      b. ☐ Costs

<u>Item</u>	<u>Amount</u>	<u>Item</u>	<u>Amount</u>
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____

- ☐ Additional items and amounts are attached at the end of this Order on Attachment 9.

**10 ☐ Other Orders (specify):**

\_\_\_\_\_  
\_\_\_\_\_

- ☐ Additional orders are attached at the end of this Order on Attachment 10.

**To the Person in 1:**

**11 Mandatory Entry of Order Into CARPOS Through CLETS**

This Order must be entered into the California Restraining and Protective Order System (CARPOS) through the California Law Enforcement Telecommunications System (CLETS). (*Check one*):

- a. ☐ The clerk will enter this Order and its proof-of-service form into CARPOS.
- b. ☐ The clerk will transmit this Order and its proof-of-service form to a law enforcement agency to be entered into CARPOS.
- c. ☐ By the close of business on the date that this Order is made, the person in 1 or his or her lawyer should deliver a copy of the Order and its proof-of-service form to the law enforcement agency listed below to enter into CARPOS:

Name of Law Enforcement Agency

Address (City, State, Zip)

\_\_\_\_\_  
\_\_\_\_\_

- ☐ Additional law enforcement agencies are listed at the end of this Order on Attachment 11.

**This is a Court Order.**





**12 Service of Order on Restrained Person**

- a. ☐ The person in (2) personally attended the hearing. No other proof of service is needed.
- b. ☐ The person in (2) did not attend the hearing.
- (1) ☐ Proof of service of Form CH-110, *Temporary Restraining Order*, was presented to the court. The judge's orders in this form are the same as in Form CH-110 except for the expiration date. The person in (2) must be served with this Order. Service may be by mail.
- (2) ☐ The judge's orders in this form are different from the temporary restraining orders in Form CH-110. Someone—but not anyone in (1) or (3)—must personally serve a copy of this Order on the person in (2).

**13 ☐ No Fee to Serve (Notify) Restrained Person**

The sheriff or marshal will serve this Order without charge because:

- a. ☐ The Order is based on unlawful violence, a credible threat of violence, or stalking.
- b. ☐ The person in (1) is entitled to a fee waiver.

**14** Number of pages attached to this Order, if any: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
*Judicial Officer*

**Warning and Notice to the Restrained Person in (2):****You Cannot Have Guns or Firearms**

You cannot own, have, possess, buy or try to buy, receive or try to receive, or otherwise get guns, other firearms, or ammunition while this Order is in effect. If you do, you can go to jail and pay a \$1,000 fine. You must sell to or store with a licensed gun dealer, or turn in to a law enforcement agency, any guns or other firearms that you have or control as stated in item (8) above. The court will require you to prove that you did so.

**Instructions for Law Enforcement****Enforcing the Restraining Order**

This Order is enforceable by any law enforcement agency that has received the Order, is shown a copy of the Order, or has verified its existence on the California Restraining and Protective Order System (CARPOS). If the law enforcement agency has not received proof of service on the restrained person, and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the Order and then must enforce it. Violations of this Order are subject to criminal penalties.

**This is a Court Order.**



## Start Date and End Date of Orders

This Order *starts* on the date next to the judge's signature on page 4 and *ends* on the expiration date in item ④ on page 1.

## Arrest Required If Order Is Violated

If an officer has probable cause to believe that the restrained person had notice of the order and has disobeyed it, the officer must arrest the restrained person. (Pen. Code, §§ 836(c)(1), 13701(b).) A violation of the order may be a violation of Penal Code section 166 or 273.6. Agencies are encouraged to enter violation messages into CARPOS.

## Notice/Proof of Service

The law enforcement agency must first determine if the restrained person had notice of the order. Consider the restrained person "served" (given notice) if (Pen. Code, § 836(c)(2)):

- The officer sees a copy of the *Proof of Service* or confirms that the *Proof of Service* is on file; *or*
- The restrained person was at the restraining order hearing or was informed of the order by an officer.

An officer can obtain information about the contents of the order and proof of service in CARPOS. If proof of service on the restrained person cannot be verified and the restrained person was not present at the court hearing, the agency must advise the restrained person of the terms of the order and then enforce it.

## If the Protected Person Contacts the Restrained Person

Even if the protected person invites or consents to contact with the restrained person, this Order remains in effect and must be enforced. The protected person cannot be arrested for inviting or consenting to contact with the restrained person. The orders can be changed only by another court order. (Pen. Code, § 13710(b).)

## Conflicting Orders—Priorities of Enforcement

**If more than one restraining order has been issued, the orders must be enforced according to the following priorities:** (See Pen. Code, § 136.2, Fam. Code, §§ 6383(h)(2), 6405(b).)

1. *EPO*: If one of the orders is an *Emergency Protective Order* (form EPO-001) and is more restrictive than other restraining or protective orders, it has precedence in enforcement over all other orders.
2. *No Contact Order*: If there is no EPO, a no-contact order that is included in a restraining or protective order has precedence over any other restraining or protective order.
3. *Criminal Order*: If none of the orders includes a no contact order, a domestic violence protective order issued in a criminal case takes precedence in enforcement over any conflicting civil court order. Any nonconflicting terms of the civil restraining order remain in effect and enforceable.
4. *Family, Juvenile, or Civil Order*: If more than one family, juvenile, or other civil restraining or protective order has been issued, the one that was issued last must be enforced.

Clerk's Certificate  
[seal]

(Clerk will fill out this part.)  
—Clerk's Certificate—

I certify that this *Civil Harassment Restraining Order After Hearing* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

**Request to Continue Court Hearing  
and to Reissue Temporary  
Restraining Order**

Clerk stamps date here when form is filed.

**1 Person Seeking Protection**

a. Your Full Name: \_\_\_\_\_

Your Lawyer (if you have one for this case):

Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_

Firm Name: \_\_\_\_\_

b. Your Address (If you have a lawyer, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, you may give a different mailing address instead. You do not have to give telephone, fax, or e-mail.):

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Fill in court name and street address:

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO**

- ☐ CENTRAL DIVISION, HALL OF JUSTICE,  
330 W. BROADWAY, SAN DIEGO, CA 92101
- ☐ EAST COUNTY DIVISION, 250 E. MAIN ST.,  
EL CAJON, CA 92020
- ☐ NORTH COUNTY DIVISION, 325 S. MELROSE DR.,  
VISTA, CA 92081
- ☐ SOUTH COUNTY DIVISION, 500 3RD AVE.,  
CHULA VISTA, CA 91910

Fill in case number:

**Case Number:** \_\_\_\_\_**2 Person From Whom Protection Is Sought**

Full Name: \_\_\_\_\_

Address (if known): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**3 Request to Continue Hearing and to Reissue Temporary Restraining Order**I ask the court to continue the hearing currently scheduled for (date): \_\_\_\_\_  
and to reissue the attached *Temporary Restraining Order* (Form CH-110).a. The attached order was issued on (date): \_\_\_\_\_ without notice to the person in **2**.

b. I request that the Temporary Restraining Order be reissued because (check one or both):

(1) ☐ I could not get the order served before the hearing date(2) ☐ Otherfor the reasons stated ☐ below ☐ on Attachment 3bc. (1) ☐ This is the first request to reissue the Order.(2) ☐ The Order has been previously reissued \_\_\_\_\_ times.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: \_\_\_\_\_

Type or print your name

Sign your name

**This is not a Court Order.**